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# FROM CRAYONS TO HANDCUFFS: AN INVESTIGATION OF ELEMENTARY SCHOOL DISCIPLINE

*by* LAURA KNITTLE

**I**n March 2010, a first-grade student at Carver Primary School in Chicago's far South Side got in trouble for being disruptive.<sup>1</sup> A school security guard handcuffed the 6-year-old boy and detained him for more than an hour.<sup>2</sup> The guard then told him he would go to prison and would never see his parents again.<sup>3</sup>

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This elementary school student's story is not unique. Elementary schools across the country are handcuffing students as a form of discipline, leaving many people wondering what effects these policies will have on the youngest members of society.

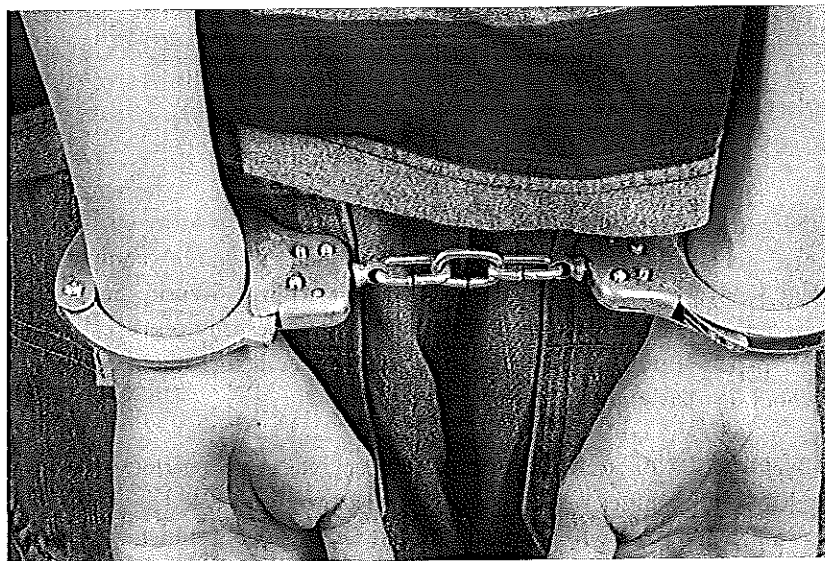
#### HISTORY OF HANDCUFFING IN SCHOOLS

The first case of school handcuffing to gain national attention occurred in the Kent (Wash.) School District in 2004.<sup>4</sup> In response, the National Association for the Advancement of Colored People ("NAACP") filed suit on behalf of 14 African-American families.<sup>5</sup> In its complaint, the NAACP contended that the security guards used excessive force when handcuffing the students.<sup>6</sup> In 2005, the suit was dismissed.<sup>7</sup>

Suits against school districts for use of excessive force relating to handcuffing have since continued. On June 8, 2011, the Southern Poverty Law Center ("SPLC") filed a federal class action lawsuit against the Jackson (Miss.) Public School District for allowing a school to handcuff students for hours at a time for "uniform violations and other minor infractions."<sup>8</sup> The SPLC also filed a suit against the Louisiana Recovery School District in July 2010 for "repeatedly handcuffing and shackling" a 6-year-old boy for "minor offenses."<sup>9</sup>

#### CONSEQUENCES TO THE STUDENTS

Michael Carin is an attorney in Chicago representing the Carver student in his suit against Chicago Public Schools.<sup>10</sup> Carin believes handcuffing in schools is a strictly legal question.<sup>11</sup> "If we believe the law is designed to protect individuals' rights and create a safe place to live, when there are facts such as these that are shocking, lawyers must take a stand and fight for something they believe in."<sup>12</sup> According to Carin, the student and his family hope to reach a resolution with the school, realizing they cannot go back in time and change what happened.<sup>13</sup>



What happened to Carin's client is part of a larger phenomenon.<sup>14</sup> According to some social scientists, "Contact with police and incarceration not only fails to deter deviant acts, but increases an individual's exposure to some deviant subcultures."<sup>15</sup> This contributes to what is known as the school-to-prison pipeline.<sup>16</sup>

The school-to-prison pipeline refers to a trend wherein children are pushed out of public schools and into the juvenile and adult criminal justice systems.<sup>17</sup> This so-called pipeline has "a disproportionate impact on poor and minority communities and has dramatically increased the number of juveniles that pass through the criminal justice system."<sup>18</sup>

In a 1980 case before the Fourth Circuit Court of Appeals, the court effectively banned the use of corporal punishment in schools.<sup>19</sup> It held that force is unconstitutional if it "shocks the conscience."<sup>20</sup> When corporal punishment was eliminated, so was any kind of physical contact.<sup>21</sup> Some theorize that in the absence of touch, a connection between students and teachers has disappeared and has been replaced with "a new found fear of children."<sup>22</sup> This fear of children has led to the increased presence of police officers and security guards in elementary schools across the country.<sup>23</sup>

## THE ROLE OF SECURITY GUARDS IN SCHOOLS

In fulfilling this new role, it is not always clear exactly what security guards in elementary schools across the country are being trained to do.<sup>24</sup> According to President Ken Trump of the National School Safety and Security Services, there are no national training requirements for school security officers.<sup>25</sup> For the most part, the procedures that security staff follow tend to be consistent with school districts' policies and procedures.<sup>26</sup>

Jamal Henry, dean of students at an elementary school in Charlotte, N.C., stated that security officials in his school district will only use handcuffs to conduct a juvenile arrest when a high school or middle school student brings a knife or other weapon on campus.<sup>27</sup> The officers conducting these arrests are retired police officers assigned to work in middle and high schools in the district.<sup>28</sup>

Henry made it clear, however, that such juvenile arrests do not occur in elementary schools in his district.<sup>29</sup> Instead, elementary schools are assigned a resource officer that can be called in for severe incidents, such as those involving drugs, violence, weapons, threats and large sums of money.<sup>30</sup>

Henry's own school also has a behavior management technician ("BMT") charged with assisting in the discipline of students.<sup>31</sup> The BMT is the first responder and only investigates behavioral difficulties reported by a staff member or another student.<sup>32</sup> He has the ability to suspend students if needed, but he never uses handcuffs.<sup>33</sup>

Part of the problem in Illinois is that school districts are funded through wholesale block grants each year, and each district may choose how to spend its share.<sup>34</sup> So there is no predicting how each district will approach hiring security personnel. According to Carin, if school districts want to have security guards discipline students, they need to ensure the guards receive adequate training.<sup>35</sup> He added, "Whenever any institution, corporation, or entity decides it wants to empower an employee but fails to train this employee, and as a result of this failure, other individuals are hurt, those individuals' rights have been violated, and the corporation or entity should be held accountable."<sup>36</sup>

Even if these individuals are held accountable under the law, the psychological effect on a child that is handcuffed in schools is difficult to quantify.<sup>37</sup> Studies have shown that students that feel connected to their schools and have strong relationships have more positive social values and greater academic success.<sup>38</sup>

It remains to be seen whether the young student from Carver Primary School will be pushed into the school-to-prison pipeline as a result of his school's disciplinary system. According to Carin, though, "When you have a violation of trust in authority, it's difficult to say where that will affect someone who is 6 years old."<sup>39</sup> Until school districts gain better perspective on the effects of handcuffing elementary school students, and whether such punishment will lead to a rapid expansion of the school-to-prison pipeline, perhaps it is best to stick to crayons.

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#### NOTES

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2 *Id.*

3 *Id.*

4 Christina Curtis, *Responding to Columbine: Kent School District and the Use of Handcuffs*, 28 WHITTIER L. REV. 793, 793 (2006).

5 *Id.*

6 *Id.*

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10 Phone interview with Michael Carin, Personal Injury Attorney, Chicago, Ill. (Oct. 14, 2011).

11 *Id.*

12 *Id.*

13 *Id.*

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- 16 Price, *supra* note 14.
- 17 *School-to-Prison Pipeline*, AMER. CIV. LIBERTIES UNION (Jan. 8, 2010), <http://www.aclu.org/racial-justice/school-prison-pipeline>.
- 18 *Id.*
- 19 *Hall v. Tawney*, 621 F.2d 607, 615 (4th Cir. 1980).
- 20 *Id.*
- 21 Curtis, *supra* note 4.
- 22 *Id.*
- 23 *Id.*
- 24 *Id.*
- 25 E-mail interview with Ken Trump, Pres. of Nat'l Sch. Safety and Sec. Serv's., Clev., Ohio. (Oct. 3, 2011).
- 26 *Id.*
- 27 Phone Interview with Jamal Henry, Dean of Students, Hickory Grove Elem. Sch., Charlotte, N.C. (Oct. 4, 2011).
- 28 *Id.*
- 29 *Id.*
- 30 *Id.*
- 31 *Id.*
- 32 *Id.*
- 33 *Id.*
- 34 Carin, *supra* note 10.
- 35 *Id.*
- 36 *Id.*
- 37 Rabinowitz, *supra* note 15.
- 38 *Id.*
- 39 *Id.*